IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 8079 of 1999

with

FIRST APPEAL No 8080 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-
and
Hon'ble MR.JUSTICE H.K.RATHOD sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO No

2. To be referred to the Reporter or not? No :

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO No

5. Whether it is to be circulated to the Civil Judge? No :

GSRTC

Versus

HAJI NURMAHMAD ISMAILBHAI VORA

Appearance:

1. First Appeal No. 8079 of 1999
   MR HEMANT S SHAH for Petitioner
   MR BP MUNSHI for Respondent No. 1 to 4
   NOTICE UNSERVED for Respondent No. 5

2. First AppealNo 8080 of 1999
   MR HEMANT S SHAH for Petitioner
   MR BP MUNSHI for Respondent No. 1 to 4
   NOTICE UNSERVED for Respondent No. 5

CORAM : MR.JUSTICE D.C.SRIVASTAVA
and
MR.JUSTICE H.K.RATHOD

Date of decision: 02/08/2000

ORAL COMMON JUDGEMENT

1. Shri B.P.Munshi, learned Counsel appeared for respondents No.1 to 4 in response to Notice issued by this Court. The respondent No.5 is not served. Shri B.P.Munshi argued that the respondent No.5 is driver of the appellant and is hardly necessary party. Shri Shah, learned Counsel for the appellant is unable to delete respondent No.5. However, we think that respondent No.5 is only proforma respondent, hence at the time of admission service of notice on him is not necessary.

2. We have heard Shri Hemant Shah, learned Counsel for the appellant and Shri B.P.Munshi, learned Counsel for the respondents No.1 to 4 on admission of these two Appeals.

3. First Appeal No.8079 of 1999 arises out of M.A.C.Petition No. 1809 whereas First Appeal No. 8080 of 1999 arises out of M.A.C. Petition No.1810 of 1993. From the copy of order of the Tribunal contained in Annexure : A it appears that five claim petitions were preferred by the claimants. Three other claim petitions were Petition Nos. 1807/93, 1808/93 and 1941/93. Compensation awarded in M.A.C.Petition No. 194/93 was Rs.9999/-. Since compensation was less than Rs.10,000/the Appeal was dismissed as not maintainable. Other two Appeals, arising out of M.A.C.Petition No. 1807/93 and 1808/93 were dismissed by order in First Appeal No.8078/99, decideed on 10.4.2000. Compensation Awarded in these two M.A.C. Petitions were Rs.1,18,000/and Rs.1,16,000/respectively. Compensation awarded in M.A.C.Petition No.1809/93 and 1810/93 is Rs.75,000/- each which was in respect of death of two minors. We have examined the impugned order. In Para : 13 of the Award the Tribunal found that the minor children were studying in school hence notional income can safely be taken at Rs.1500/per month. Applying the multiplier of 10 the total loss of income was calculated at Rs.60,000/-. Keeping in view the fact that the dependency has been Rs.500/- p.m. it was multiplied by 12 and then applying multiplier of 10 dependency was

worked at Rs.60,000/-. Rs.10,000/- were awarded for expectation of life and Rs.5000/- for funeral expenses. In this way the total compensation was awarded for Rs.75,000/- each. The Award of compensation in our view, therefore, cannot be said to be exorbitant or excessive. In these Appeals quantum of compensation is challenged only to the extent of Rs.35,000/- for which there seems to be no reasonable justification. Since these and other petitions arose out of the same accident and two petitions were summarily rejected meaning thereby that negligence part was affirmed.

We, therefore, do not find any merit in these two Appeals which are hereby dismissed.

sd/-

(D. C. Srivastava, J.)

Date : August 02, 2000 sd/-

(H. K. Rathod, J.)

sas